Our Case No. 10022/15

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Richard I. Adduci et al.   )
)
)   Examiner: Frenel, Vanel
Serial No. 09/580,233   )
)   Group Art Unit No. 3626
Filing Date: May 26, 2000   )
)
)
For   METHOD AND SYSTEM FOR   )
      PROVIDING A FINANCIAL   )
      ANALYSIS OF AN ENHANCED   )
      WIRELESS COMMUNICATIONS   )
      SERVICE   )

APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Appeal Brief is in response to the Final Office Action mailed September

8, 2006[1].

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[1] Appellants are filing a Notice of Appeal concurrently with the present Appeal Brief. Since the Notice of Appeal is being filed within three months of the mailing date of the Office Action and the present Appeal Brief is being filed within two months of the filing of the Notice of Appeal, the present Appeal Brief is timely filed.

I.   REAL PARTY IN INTEREST

Accenture L.L.P. is the real party of interest in this Appeal pursuant to: 1) a recorded assignment of the application to Andersen Consulting L.L.P. executed by the inventors and 2) a recorded change of name of Andersen Consulting L.L.P. to Accenture L.L.P.

II.   RELATED APPEALS AND INTERFERENCES

There are no other appeals, interferences or other judicial proceedings that may be related to, would directly affect or be directly affected by or have a bearing on the Board's decision in the pending Appeal.

III.   STATUS OF CLAIMS

Claims 1-27, all claims presented, are rejected. No claims are allowed, withdrawn, objected to or canceled.

IV.   STATUS OF AMENDMENTS

An Amendment was filed on March 31, 2003 regarding a Final Office Action mailed on January 29, 2003. An Advisory Action was mailed on May 13, 2003 denying entry of the Amendment.

An Amendment was filed on June 15, 2004 regarding a Final Office Action mailed on March 17, 2004. The Amendment pointed out that the March 17th Office Action should not have been made final. The Examiner agreed and so the June 15, 2004 Amendment was entered.

An Amendment was filed on December 17, 2004 regarding a Final Office Action mailed on October 19, 2004. An Advisory Action was mailed on January 27, 2005 denying entry of the Amendment.

A Final Office Action was mailed on September 8, 2006. There have been no Amendments filed from September 8, 2006 to the filing of the present Appeal Brief.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

An understanding of the invention of independent claims 1 and 17 can be made upon a review of the embodiments of the invention shown in FIGS. 1-4, 11 and 12 of the specification. Note that in the description to follow, like elements will employ identical identification numerals.

An embodiment of the present invention is shown schematically in FIG. 1. In particular, FIG. 1 shows a financial analysis system 45 that includes an estimator 30 that may communicate with a reference database 10, a user input interface 22, and a financial analyzer 42 (P. 6, ll. 11-13). The reference database 10 and the user input interface 22 provide input data to the estimator 30 (P. 6, ll. 13-14). The estimator 30 provides output data to the financial analyzer 42 based on an evaluation of the input data (P. 6, ll. 14-15).

The user input interface 22 includes a wireless application selector 24 and a market data input interface 26 (P. 7, ll. 11-12). The wireless application selector 24 allows the user to select one or more wireless applications that are supported by a proposed enhanced wireless communications service (P. 7, ll. 12-14). The user input

interface 22 or the reference database 10 may store a library of wireless applications at are associated with corresponding enhanced wireless data services (P. 7, II. 14-17). The market data input interface 26 allows the user to enter information, about an existing wireless communications service, which pertains to the geographic region of the proposed enhanced wireless service (P. 7, II. 17-19).

The reference database 10 generally contains reference data that form a background for use with user input and a technology adoption curve to provide a financial analysis (P. 7, II. 20-22). As shown in FIG. 1, the reference database 10 stores market data 12, cost data 14 on wireless infrastructure deployment, cost data 16 on operating and maintaining deployed wireless infrastructure, revenue data 18, standard adoption curve data 38, and an application tailoring module 36 (P. 7, II. 24-28).

The standard technology adoption curve data 38 represents an estimate of the commercial acceptance of enhanced wireless communications services after introduction within a marketplace (P. 7, II. 29-31). The standard adoption curve data 38 is communicated to an application tailoring module 36 (P. 7, I. 31 – P. 8, I. 1). The application-tailoring module 36 may communicate with the estimator 30 (P. 8, II. 1-2).

The estimator 30 includes a revenue estimator 34 and a cost estimator 32 (P. 8, II. 3-4). The user input interface 22 provides input data to the cost estimator 32 and the revenue estimator 34 (P. 8, II. 4-5). The cost estimator 32 receives input data from the cost data 14 on wireless infrastructure deployment, the cost data 16 on operating and maintaining deployed wireless infrastructure, and the application tailoring module 36 (P.

8, II. 5-8). The revenue estimator 34 receives input data from the revenue data 18, the market data 12, and the application tailoring module 36 (P. 8, II. 8-10). The revenue estimator 34 and the cost estimator 32 are arranged for communication with the financial analyzer 42 (P. 8, II. 10-11).

The financial analyzer 42 is preferably capable of accepting output data (e.g., financial evaluation) from the revenue estimator 34, the cost estimator 32, or both (P. 8, II. 12-14). The financial analysis system 45 may display the financial analysis or a portion thereof to a user in a graphical form (P. 8, II. 14-15).

The reference database 10 includes market data 12 related to the proposed offering of enhanced wireless communications services (P. 9, II. 8-10). The market data 12 defines a potential market for a proposed offering of enhanced wireless data service (P. 9, II. 10-11).

The cost data 14 on wireless infrastructure deployment may provide an estimate of the costs for offering a proposed enhanced wireless system based on a scale or scope of an existing wireless communications infrastructure (P. 10, II. 8-10).

Cost data 16 on operations and maintaining deployed wireless infrastructure may be based on historical costs of maintaining an existing wireless communications service in a particular geographic area (P. 11, II. 9-11).

Besides cost data, the reference database 10 includes revenue data 18 from an existing wireless communications service (P. 11, II. 15-16). The revenue data 18 from

the existing wireless communications service provides some basis for predicting the revenue data 18 from an enhanced wireless communications service (P. 11, ll. 16-19).

As shown in FIG. 2, the application tailoring module 36 includes an adoption curve adjuster 64 that communicates with a usage estimator 66 and a telecommunications infrastructure configurator 68 (P. 11, ll. 27-29). In turn, the usage estimator 66 communicates with the revenue estimator 34, and the infrastructure configurator 68 communicates with the cost estimator 32 (P. 11, ll. 29-31). The usage estimator 66 provides an estimated usage in terms of the number of estimated subscribers of the enhanced wireless service, the estimated traffic usage by the potential subscribers of the enhanced wireless service, or otherwise (P. 11, l. 31 – P. 12, l. 3). The infrastructure configurator 68, preferably indicates the size and scope of telecommunications infrastructure (e.g., wireless equipment) that is needed to support the estimated usage (P. 12, ll. 3-5). The infrastructure configurator 68 may indicate the size and scope in terms of a desired traffic handling capacity of the wireless infrastructure, the telecommunications infrastructure, or both (P. 12, ll. 5-8). The usage estimator 66 may provide an input to the wireless infrastructure configurator 68 as indicated by the dashed line, labeled reference number 67, in FIG. 2 (P. 12, ll. 8-10).

The standard adoption curve data 38 represents a measure of consumer demand and acceptance of a new technology (P. 12, 11-12). FIGS. 3A-B show examples of adoption curves. The application tailoring module 36 may adjust the standard adoption curve, or otherwise provide at hand, as expressed through preferences of the user (P. 13, ll. 7-10). The adoption curve adjuster 64 establishes an

adjusted adoption curve by modifying the standard adoption curve data 38 or by retrieving an adjusted adoption curve from a storage device associated with the application tailoring module 36 (P. 13, ll. 10-13).

FIG. 4 shows a flowchart of a method for providing a financial analysis for a proposed offering of enhanced wireless communication service in accordance with the invention (P. 16, ll. 21-23). In step S10, a user enters available input data, into a user interface 22, that relates to the provision of enhanced wireless communication sources (P. 16, ll. 24-25). For example, the financial analysis system 45 accepts user specific input on an existing wireless communication service and a proposed enhanced wireless communication service (P. 16, ll. 26-28). The financial analysis system 45 accepts input of information that is readily ascertainable even in immature markets for enhanced wireless services (P. 16, ll. 28-30).

The user specific input of an existing wireless communication service may include market data 12 and the selection of one or more wireless applications (P. 17, ll. 10-12).

The user specific input on the enhanced wireless communication service may include the user selecting an application from a library of applications, which the enhanced wireless communication service supports (P. 17, ll. 17-19).

In step S12 after step S10, the financial analysis system 45 accesses a reference database 10, including general market data 12 for the enhanced wireless communication service and standard adoption curve data 38 for technology adoption of the enhanced wireless communication service (P. 20, ll. 12-15).

In step S14, the system 45 adjusts or handles the standard adoption curve consistent with the provision of an adjusted adoption curve based on the accepted user specific input (P. 20, II. 26-28). The accepted user specific input from step S10 is used preferably to adjust the standard adoption curve (P. 20, II. 28-29).

In a preferred embodiment, the application tailoring module 36 modifies or reshapes a standard adoption curve based one or more of the following attributes of an adoption curve (P. 22, II. 11-13).

In step S15 after step S14, the financial analysis system 45 evaluates the user input, the general market data 12, and the adjusted adoption curve to estimate revenue per application, a cost per application, or both (P. 22, II. 24-26). For example, the revenue estimator 34 may estimate revenue per application based on the accepted user input, the general market data 12, and the adjusted adoption curve (P. 22, II. 26-29). The cost estimator 32 may estimate cost per application based on the accepted user input, the general market data 12, and the adjusted adoption curve (P. 22, II. 29-31). The estimator 30 processes the general market data 12 to provide cost and revenue data for an application in the context of the adjusted adoption curve (P. 22, I. 31 – P. 23, I. 2).

In step S16, the financial analysis system 45 presents a graphical depiction of a financial analysis based on the evaluation of the adjusted adoption curve, the general market data 12, and the accepted user input (P. 23, II. 3-5). The financial analyzer 42 accepts the estimated revenue and estimated costs as inputs from the estimator 30 (P. 23, II. 5-7). The financial analyzer 42 provides a graphical depiction as an output based

on the foregoing estimated revenue input and estimated cost input (P. 23, ll. 7-9). In

step S16, the financial analysis system 45 presents the determined financial content in

a graphical manner that facilitates a convenient comparison of the economic and

statistical factors that may be used to make informed business decisions (P. 26, ll. 7-

10).

FIG. 11 shows an alternative embodiment of a system 145 for providing a

financial analysis for an enhanced wireless communication system in accordance with

the invention (P. 32, ll. 25-27). The configuration of FIG. 11 is similar to the

configuration of FIG. 1, except FIG. 11 includes a wireless application definer 46 that

may be in communication with the reference database 10 and the estimator 30 (P. 32, ll.

27-30).

FIG. 12 shows another block diagram of an alternative embodiment of the

system 245 and method for providing a financial analysis for an enhanced wireless

communications service (P. 33, l. 31 – P. 34, l. 1). The system 245 of FIG. 12 is similar

to the configuration of FIG. 1 except the user input of FIG. 12 is equipped with a

reference data base modifier 48 (P. 34, ll. 1-3).

With the above summary in mind, claim 1 claims the invention as a method

for providing a financial analysis for an enhanced wireless communications service.

The method includes accepting user-specific input into a computer relating to an

existing wireless communications service and the enhanced wireless

communications service, wherein the user-specific input includes a wireless

application selection for selecting at least one wireless application supported by the

enhanced wireless communications service and a market data input interface for entering existing data about the existing wireless communications service. An example of such accepting can be found in step S10 of FIG. 4 (P. 16, II. 21-30). The claimed method further includes accessing a reference database including general market data applicable to the enhanced wireless communications service and a standard adoption curve for adoption of the enhanced wireless communications service, wherein the reference database further includes a first set of cost data values associated with a wireless infrastructure deployment cost and a second set of cost data values associated with an operations and maintenance cost for the enhanced wireless communications service, wherein the reference database further includes a revenue data value associated with the existing wireless communications service. An example of such accessing can be found in step S12 of FIG. 4 (P. 7, II. 20-22 and 24-28 and P. 20, II. 12-15). The claim further includes adjusting the standard adoption curve to obtain an adjusted adoption curve based on the accepted user-specific input. An example of such adjusting can be found in step S14 of FIG. 4 (P. 13, II. 7-13, P. 20, II. 26-29 and P. 22, II. 11-13). The claimed method further includes estimating at least one potential revenue value associated with the at least one wireless application, wherein estimating comprises generating at least one revenue estimate based on the accepted user-specific input, the revenue data value, the general market data and the adjusted adoption curve to generate at least one revenue estimate, and wherein estimating further comprises

generating at least one cost estimate based on the first set of cost data values, the second set of cost data values and the adjusted adoption curve. An example of such estimating can be found in step S15 of FIG. 4 (P. 11, I. 27 – P. 12, I. 10 and P. 22, I. 24 – P. 23, I. 2). The claimed invention also entails presenting a graphical depiction of a financial analysis based on an evaluation of the at least one potential revenue value, the adjusted adoption curve, the general market data, the first set of cost data values, the second set of cost data values and the revenue data value. An example of such presenting can be found in step S16 of FIG. 4 (P. 8, II. 12-15, P. 23, II. 3-9 and P. 26, II. 7-10).

Claim 17 claims the invention as a system for developing a business model for an enhanced wireless communications service. The claimed system includes a storage device containing a reference database including general market data for the enhanced wireless communications service and a standard adoption curve for adoption of the enhanced wireless communications service, where the reference database further includes a first cost data value associated with a wireless infrastructure deployment cost and a second cost data value associated with an operations and maintenance cost for the enhanced wireless communications service, where the reference database further includes a revenue data value associated with an existing wireless communications service. An example of such a storage device is reference database 10 shown in FIG. 1 (P. 7, II. 20-22 and 24-28, P. 9, II. 8-11, P. 10, II. 8-10, P. 11, II. 9-11 and 15-16). The system further includes a

user input interface for accepting user-specific input relating to an existing wireless communications service and the enhanced wireless communications service, wherein the user-specific input includes a wireless application selection for selecting at least one wireless application supported by the enhanced wireless communications service and a market data input interface for entering existing data about the existing wireless communications service. An example of such a user input interface is user input interface 22 shown in FIG. 1 (P. 7, ll. 11-17). The claimed system further includes an application tailoring module for modifying the standard adoption curve to obtain an adjusted adoption curve based on the user-specific input. An example of such an application tailoring module is module 36 shown in FIGS. 1 and 2 (P. 13, ll. 7-13, P. 20, ll. 26-29 and P. 22, ll. 11-13). The claimed system further entails an estimator adapted to access the reference database and to receive the user-specific input to perform a financial analysis associated with the enhanced wireless communications service as a function of the user-specific input, the first cost data value, the second cost data value and the revenue data value, the estimator for generating an estimated revenue value and an estimated cost value. An example of such an estimator is estimator 30 shown in FIG. 1 (P. 11, l. 27 – P. 12, l. 10 and P. 22, l. 24 – P. 23, l. 2). The claimed system includes a financial analyzer for presenting a graphical depiction of the financial analysis. An example of such a financial analyzer is analyzer 42 shown in FIG. 1 (P. 8, ll. 12-15, P. 23, ll. 3-9 and P. 26, ll. 7-10).

There are no means-plus-function terms or step-plus-function terms in independent claims 1 and 17 and dependent claims 2-12, 14-16 and 18-27 which are argued separately below in Section VII.

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A.   References Applied

1.   Kotler, "Principles of Marketing," 8th Edition, published by Prentice Hall, 1999, pp. 98-114, 156-159, 196-215, 250-268, 274-294, 305-309, 320, 328-345 and A1-A14;

2.   "Disclosed Prior Art", Appellants' "Background of the Invention" located at pages 1-4 of the Appellants' Specification;

3.   Bohlin, "Telecommunications Transformation: Technology, Strategy & Policy, published by IOS Press, 1998, p. 15);

4.   Dorf, "The Technology Handbook," published by CRC Press, 1999, pp. 3-20 – 3-27;

5.   Porter, "Forecasting & Management of Technology," published by John Wiley & Sons, 1991, pp. 90-97;

6.   Mahajan, "Models for Innovation Diffusion," published by Sage Publications, 1985, p. 8;

7.   Townsend, "Mastering Excel 4 for Windows," published by Sybex, 1992, pp. 387-397; 423-451 and 624-636;

8.   Weerahandi, "Using Survey Data to Predict Adoption and Switching for Services," Journal of Marketing Research, Vol. 32, No. 1, February 1995, pp. 85-96;

9.   Kroenke, "Database Processing: Fundamentals, Design & Implementation," 6th Edition, published by Prentice Hall, 1998, pp. 295-296;

10.   Finnerty, "Project Financing: Asset-Based Financial Engineering," published by John Wiley & Sons, 1996, p. 144; and

11.   Heizer, "Operations management," 5th Edition, published by Prentice Hall, 1999, pp. 139-176; 242-262 and 703-714.

B.   Rejections to be Reviewed

The four rejections presented for review: 1) claims 1-7, 9, 10, 17-23, 25 and 26 as being obvious under 35 U.S.C. § 103(a) in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi; 2) claims 8 and 24 as being obvious under 35 U.S.C. § 103(a) in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Kroenke; 3) claims 11 and 27 as being obvious under 35 U.S.C. § 103(a) in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Finnerty; and 4) claims 12-16 as being obvious under 35 U.S.C. § 103(a) in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Heizer.

VII. ARGUMENT

A. Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi

1. Claim 1

In the Office Action of September 8, 2006 (hereinafter "the Office Action"), claim 1 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse this rejection for various reasons. In particular, independent claim 1 recites "accepting user-specific input into a computer relating to an existing wireless communications service and the enhanced wireless communications service." The Office Action asserts that Kotler discloses the accepting of a user-specific input related to existing and new products or services at pages 110-114. A review of the pages reveals that there is no disclosure of inputting of data related to both existing and new products/services in a single method. Since there is no suggestion in Kotler or the prior art to alter Kotler to accept user-specific input related to both existing and new products or services in a single method, the rejection is improper and should be withdrawn.

The rejection is improper for the additional reason that Kotler fails to disclose a user-specific input that includes a wireless application supported by an enhanced wireless communications service. The Office Action has conceded this. The Office Action appears to be asserting at pages 5 and 6 that Appellants' specification makes statements regarding the prior art that suggests altering Kotler to include the recited

wireless application. A review of Appellants' specification, including pages 1-4, does not reveal such prior art. Regarding pages 1-4 of Appellants' specification, it refers to the case where there is an existing wireless communications service and contemplates what economic issues must be contemplated if it is decided to employ an enhanced wireless communications service in the future. There is no mention of inputting a wireless application selection. The Office Action at pages 32 and 33 asserts that it would have been obvious to have modified the marketing research collection techniques of Kotler to collect information about products/services, such as the wireless applications disclosed by ""Disclosed Prior Art"." While "Disclosed Prior Art" corresponding to Appellants' Background of the Invention Section does discuss wireless applications, there certainly no information in that section that suggests altering Kotler et al. in the manner suggested by the Office Action. Accordingly, the rejection is improper and should be withdrawn.

The rejection is improper for the additional reason that Kotler fails to access a reference database that includes cost data values associated with an enhanced wireless communications service <u>and</u> a revenue data value associated with an existing wireless communications service. The Office Action relies on pages 100, 281, 305-309 and 320 of Kotler as suggesting such accessing. A review of the pages reveals that Kotler is silent as to accessing a reference database that includes data associated with both existing and enhanced communications services. The Office Action at pages 5, 6 and 33 refers to "Disclosed Prior Art" as

disclosing prior art that suggests accessing a reference database that includes data associated with both existing and enhanced communications services. Reviewing pages 1-4 of Appellants' Specification only reveals Appellants describing the situation where a party contemplates replacing an existing wireless communications service with an enhanced one. Such contemplation is not prior art. It is noted that the Office Action asserts that the Appellants' use of the terms "commonly", "frequently", "conventionally" and/or "traditionally" signal that all of pages 1-4 of Appellants' Background of the Invention Section is prior art. Appellants have reviewed pages 1-4 and did not find the asserted words. Accordingly, the assertion appears to have not merit. If this assertion is repeated, Appellants request that the locations of the words be identified so that Appellants can properly determine what subject matter on pages 1-4 can be considered prior art.

Assuming for argument's sake that it did qualify as prior art, pages 1-4 do not disclose accessing from a reference database data that is associated with existing and enhanced wireless communications services. Since there is no motivation in the prior art or in Kotler itself to alter Kotler to access a reference database that includes cost data values associated with an enhanced wireless communications service and a revenue data value associated with an existing wireless communications service, the rejection is improper and should be withdrawn.

It is noted that the Office Action at page 6 has stated that:

> It would have been obvious to one of ordinary skill in the
> art . . . to have modified Kotler to allow for application of

> standard marketing and business analysis methodology to
> any product or service that the inventor desired, such as
> basic wireless services, enhanced wireless services.

Appellants traverse the above statement in that it is vague and has no basis in the law. First, the statement refers to "standard marketing and business analysis methodology." It is unclear what that phrase encompasses and how the phrase teaches how to alter Kotler. The Office Action states that Kotler is a general marketing textbook that discloses the recited "standard marketing and business analysis methodology." What particular teaching of Kotler is to be altered? How is the teaching to be altered? Appellants can only guess. To say the least, this vagueness is unfair to Appellants. Appellants traverse the statement for the additional reason that the standard for modifying Kotler is not what is standard in the art, but what is suggested by the prior art. As mentioned above, there is no suggestion in the prior art to alter Kotler to access a reference database that includes cost data values associated with an enhanced wireless communications service <u>and</u> a revenue data value associated with an existing wireless communications service, standard adoption curve. Without such motivation, the rejection is improper. The Office Action's citation of *In re Kuhle*, 526 F.2d 553, 188 USPQ 7, (CCPA 1975) does not offer anything that contradicts Appellants' position. The Office Action has clarified at pages 34-35 that *In re Kuhle* is being cited for the proposition that it would have been a matter of design choice to apply the standard marketing and business analysis technology of Kotler to wireless communication

services rather than teddy bears or fast food restaurants. Again the question is what analysis technology is being contemplated. It well could be that different analysis would be used for different markets as disparate as teddy bears and wireless communication. Appellants would like clarification on what marketing and business analysis technology is being contemplated. Since there is no motivation to alter Kotler to access a reference database in the manner recited above, the rejection should be withdrawn.

The rejection is improper for the additional reason that Kotler et al. fails to disclose adjusting a standard adoption curve to obtain an adjusted adoption curve. The Office Action has asserted that pages 156-159 and FIGS. 5-7 of Kotler disclose the recited standard adoption curve. The Office Action further concedes that Kotler does not disclose adjusting a standard adoption curve. The Office Action has asserted that Mahajan and Bohlin disclose that "the rate of adoption of any two products may differ from the standard adoption curve." A review of page 8 of Mahajan reveals that the diffusion patterns of innovations, such as radioisotopes and computer applications, may differ. However, there is no discussion of a standard adoption curve or its adjustment.

Regarding Bohlin, it discusses at page 15 that models of consumer adoption may follow Gomperz and Fisher Pry curves. Bohlin discloses that the data does not perfectly fit the curves. Again, there is no disclosure of a standard adoption curve or its adjustment.

The Office Action asserts that Weerahandi discusses the use of adoption curves to forecast demand for products and services. As pointed out in Appellants' Response filed on December 8, 2005, Weerahandi does not use adoption curves regarding "enhanced" services. Furthermore, Weerahandi does not disclose nor suggest altering a standard adoption curve.

The Office Action asserts that adjustment of a standard adoption curve would have been obvious in view of Dorf and Porter. Regarding Dorf, Dorf does not disclose nor suggest adjusting a standard adoption curve.

Porter also does not disclose nor suggest adjusting a standard adoption curve.

It should be noted that the curve of FIGS. 5-7 of Kotler regards adopter categorization on the basis of relative time. Assuming for argument's sake that the curve is a standard adoption curve, it appears that the references Mahajan, Bohlin, Dorf and Porter do not disclose such a curve and so there is no motivation to adjust the curve of FIGS. 5-7. Since no reference cited in the Office Action discloses or suggests altering Kotler to adjust a standard adoption curve, the rejection is improper and should be withdrawn.

The rejection of claim 1 is improper for the additional reason that Kotler fails to disclose estimating a potential revenue value by generating a revenue estimate based on an adjusted adoption curve. As mentioned above, Kotler and the prior art do not disclose nor suggest having Kotler adjust a standard adoption curve. It

follows that Kotler and the prior art do not suggest altering Kotler to generate a revenue estimate based on an adjusted adoption curve.

It is noted that the Office Action has cited Townsend in the rejection. Since this reference does not cure the above mentioned deficiencies of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Weerahandi and Mahajan, the rejections are improper and should be withdrawn.

It is noted that the Office Action on page 6 asserts that it would have been obvious to automate the method of Kotler. Appellants traverse the assertion in that claim 1 is silent as to automating the method. Page 37 of the Office Action asserts that the implementation of the recited process by "a computerized system" would have been automatic. Again, claim 1 does not recite a computerized system and so the assertion has no merit.

For the above reasons, claim 1 is not rendered obvious by Kotler and the other cited art and so the rejection is improper and should be withdrawn.

2.   Claim 2

Claim 2 was rejected in the Office Action under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 2 depends directly on claim 1 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for

at least the same reasons given in Section VII.A.1. on pages 15-21 above as to why claim 1 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to adjust "the standard adoption curve based on a user input of a selected geographic region from a library of regions and a selected application from a library of applications of the enhanced wireless communications service" as recited in claim 2. The Office Action recites Mahajan, Bohlin, Dorf and Porter for disclosing the recited way of adjusting. However, a review of each reference does not reveal any adjustment of a standard adoption curve. Since there is no suggestion in any of Mahajan, Bohlin, Dorf or Porter to alter Kotler to adjust a standard adoption curve in the manner recited in claim 2, the rejection is improper and should be withdrawn.

3.   Claim 3

Claim 3 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 3 depends directly on claim 1 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.1. on pages 15-21 above as to why claim 1 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to change "a slope from the standard adoption curve to a revised slope of the adjusted adoption curve based on a user input of a specific geographic region" as recited in claim 3. The Office Action recites Mahajan, Bohlin, Dorf and Porter for disclosing the recited way of adjusting. However, a review of each reference does not reveal any adjustment of a standard adoption curve. Since there is no suggestion in any of Mahajan, Bohlin, Dorf or Porter to alter Kotler to adjust a standard adoption curve in the manner recited in claim 3, the rejection is improper and should be withdrawn.

4. Claim 4

Claim 4 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 4 depends directly on claim 1 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.1. on pages 15-21 above as to why claim 1 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to change "a saturation point from the standard adoption curve to a revised saturation point of the adjusted adoption curve based on a user input of a specific application" as recited in claim 4. The Office Action recites

Mahajan, Bohlin, Dorf and Porter for disclosing the recited way of adjusting. However, a review of each reference does not reveal any adjustment of a standard adoption curve. Since there is no suggestion in any of Mahajan, Bohlin, Dorf or Porter to alter Kotler to adjust a standard adoption curve in the manner recited in claim 4, the rejection is improper and should be withdrawn.

5.   Claim 5

Claim 5 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 5 depends directly on claim 1 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.1. on pages 15-21 above as to why claim 1 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to "increasing a slope from the standard adoption curve to a revised slope of the adjusted adoption curve based on a user input of a more affluent region than average for deploying the enhanced wireless communications service" as recited in claim 5. The Office Action recites Mahajan, Bohlin, Dorf and Porter for disclosing the recited way of adjusting. However, a review of each reference does not reveal any adjustment of a standard adoption curve. Since there is no suggestion in any of Mahajan, Bohlin, Dorf or Porter to alter Kotler to adjust a

standard adoption curve in the manner recited in claim 5, the rejection is improper and should be withdrawn.

6.   Claim 6

Claim 6 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 6 depends directly on claim 1 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.1. on pages 15-21 above as to why claim 1 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to "decreasing a slope from the standard adoption curve to a revised slope of the adjusted adoption curve based on a user input of a less affluent region than average for deploying the enhanced wireless communications service" as recited in claim 6. The Office Action recites Mahajan, Bohlin, Dorf and Porter for disclosing the recited way of adjusting. However, a review of each reference does not reveal any adjustment of a standard adoption curve. Since there is no suggestion in any of Mahajan, Bohlin, Dorf or Porter to alter Kotler to adjust a standard adoption curve in the manner recited in claim 6, the rejection is improper and should be withdrawn.

7. Claim 7

Claim 7 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 7 depends directly on claim 1 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.1. on pages 15-21 above as to why claim 1 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to "lowering a saturation point from the standard adoption curve to a revised saturation point on the standard adoption curve and based on a user input of a particular application" as recited in claim 7. The Office Action recites Mahajan, Bohlin, Dorf and Porter for disclosing the recited way of adjusting. However, a review of each reference does not reveal any adjustment of a standard adoption curve. Since there is no suggestion in any of Mahajan, Bohlin, Dorf or Porter to alter Kotler to adjust a standard adoption curve in the manner recited in claim 7, the rejection is improper and should be withdrawn.

8. Claim 9

Claim 9 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 9

depends directly on claim 1 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.1. on pages 15-21 above as to why claim 1 is patentable over the references.

The rejection is improper for the additional reason claim 9 recites "estimating revenue of the enhanced wireless communications service within a geographic region based on the accepted user-specific input and the adjusted adoption curve." The Office Action has not recited one reference for the proposition of estimating revenue within a geographical region. Accordingly, the rejection is improper. In addition, the claim 9 recites making its estimation based on the adjusted adoption curve. As mentioned above in Sections A.2-7 at pages 21-26 of the present Appeal Brief, none of the references discloses or suggests using an adjusted adoption curve. Without such suggestion, the rejection is improper and should be withdrawn.

9.   Claim 10

Claim 10 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 10 depends directly on claim 1 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.1. on pages 15-21 above as to why claim 1 is patentable over the references.

The rejection is improper for the additional reason claim 10 recites "estimating cost of the enhanced wireless communications service within a geographic region based on the accepted user-specific input and the adjusted adoption curve." The Office Action has not recited one reference for the proposition of estimating cost within a geographical region. Accordingly, the rejection is improper. In addition, the claim 10 recites making its estimation based on the adjusted adoption curve. As mentioned above in Sections A.2-7 at pages 21-26 of the present Appeal Brief, none of the references discloses or suggests using an adjusted adoption curve. Without such suggestion, the rejection is improper and should be withdrawn.

10.   Claim 17

Claim 17 was rejected in the Office Action under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverses this rejection for various reasons. In particular, independent claim 17 recites a user input interface "for accepting user-specific input relating to an existing wireless communications service and the enhanced wireless communications service." As pointed out above in Section A.1. at pages 15-21 of the present Appeal Brief, Kotler does not disclose inputting of data related to both existing and new products/services in a single method. Since there is no suggestion in Kotler or the prior art to alter Kotler to have a user input interface accept user-specific input related to both existing and new products or services in a single method, the rejection is improper and should be withdrawn.

For reasons similar to those given above in Section A.1., the rejection is improper for the additional reason that Kotler fails to disclose a user-specific input that includes a wireless application supported by an enhanced wireless communications service as recited in claim 17.

The rejection is improper for the additional reason that Kotler fails to use an estimator that accesses a reference database that includes cost data values associated with an enhanced wireless communications service and a revenue data value associated with an existing wireless communications service. The Office Action relies on pages 281, 305-309 and 320 of Kotler as suggesting such accessing. As pointed out above in Section A.1., Kotler is silent as to accessing a reference database that includes data associated with both existing and enhanced communications services. Also, Appellants' specification also fails to disclose or suggest the recited estimator. Accordingly, the rejection is improper and should be withdrawn.

The rejection is improper for the additional reason that Kotler fails to disclose an application tailoring module that modified a standard adoption curve to obtain an adjusted adoption curve. As pointed above in Section A.1., the Office Action further concedes that Kotler does not disclose adjusting a standard adoption curve. Furthermore, it has been previously shown that not any of Mahajan, Bohlin, Weerahandi, Dorf or Porter discloses nor suggests altering Kotler to adjust a

standard adoption curve. Accordingly, the rejection is improper and should be withdrawn.

For the above reasons, claim 17 is not rendered obvious by Kotler and the other cited art and so the rejection is improper and should be withdrawn.

11. Claim 18

Claim 18 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 18 depends directly on claim 17 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.10. on pages 28-30 above as to why claim 17 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to use an adoption curve adjuster for "adjusting the standard adoption curve based on a user input of a selected geographic region from a library of regions and a selected application from a library of applications" as recited in claim 18. The adjuster essentially performs the same function as recited in claim 2 and the Office Action is relying on the same arguments presented in Section VII.A.2. on pages 21-22 above with respect to claim 2 so as to reject claim 18. Accordingly, the rejections are improper for reasons similar to those given above in Section VII.A.2. with respect to claim 2.

12. Claim 19

Claim 19 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 19 depends directly on claim 17 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.10. on pages 28-30 above as to why claim 17 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to use an application tailoring module that "changes a slope from the standard adoption curve to a revised slope of the adjust adoption curve based on the user input of a specific country" as recited in claim 19. The module essentially performs the same function as recited in claim 3 and the Office Action is relying on the same arguments presented in Section VII.A.3. on pages 22-23 above with respect to claim 3 so as to reject claim 19. Accordingly, the rejections are improper for reasons similar to those given above in Section VII.A.3. with respect to claim 3.

13. Claim 20

Claim 20 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 20

depends directly on claim 17 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.10. on pages 28-30 above as to why claim 17 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to use an application tailoring module that "changes a saturation point from the standard adoption curve to a revised saturation point of the standard adoption curve based on a user input of a specific application" as recited in claim 20. The module essentially performs the same function as recited in claim 4 and the Office Action is relying on the same arguments presented in Section VII.A.4. on pages 23-24 above with respect to claim 4 so as to reject claim 20. Accordingly, the rejections are improper for reasons similar to those given above in Section VII.A.4. with respect to claim 4.

14. Claim 21

Claim 21 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 21 depends directly on claim 17 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.10. on pages 28-30 above as to why claim 17 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to use an application tailoring module that "increases a slope from the standard adoption curve to a revised slope of the adjusted adoption curve based on the user input of a more affluent region than average for deploying the enhanced wireless communications service" as recited in claim 21. The module essentially performs the same function as recited in claim 5 and the Office Action is relying on the same arguments presented in Section VII.A.5. on pages 24-25 above with respect to claim 5 so as to reject claim 21. Accordingly, the rejections are improper for reasons similar to those given above in Section VII.A.5. with respect to claim 5.

15.   Claim 22

Claim 22 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 22 depends directly on claim 17 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.10. on pages 28-30 above as to why claim 17 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to use an application tailoring module that "decreases a slope from the standard adoption curve to a revised slope of the adjusted adoption

curve based on a user input of a less affluent region than average for deploying the enhanced wireless communications service" as recited in claim 22. The module essentially performs the same function as recited in claim 6 and the Office Action is relying on the same arguments presented in Section VII.A.6. on page 25 above with respect to claim 6 so as to reject claim 22. Accordingly, the rejections are improper for reasons similar to those given above in Section VII.A.6. with respect to claim 6.

16.   Claim 23

Claim 23 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 23 depends directly on claim 17 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.10. on pages 28-30 above as to why claim 17 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to use an application tailoring module that "lowers a saturation point from the standard adoption curve to a revised saturation point of the standard adoption curve based on a user input of a particular application of the wireless communications service" as recited in claim 23. The module essentially performs the same function as recited in claim 7 and the Office Action is relying on the same arguments presented in Section VII.A.7. on page 26 above with respect to

claim 7 so as to reject claim 23. Accordingly, the rejections are improper for reasons similar to those given above in Section VII.A.7. with respect to claim 7.

17.   Claim 25

Claim 25 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi. Appellants traverse the rejection for several reasons. First, claim 25 depends directly on claim 17 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.10. on pages 28-30 above as to why claim 17 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to use an estimator that "generates the estimated revenue value as a function of a geographic region based on the accepted user-specific input and the adjusted adoption curve" as recited in claim 25. The estimator essentially performs the same function as recited in claim 9 and the Office Action is relying on the same arguments presented in Section VII.A.8. on pages 26-27 above with respect to claim 9 so as to reject claim 25. Accordingly, the rejections are improper for reasons similar to those given above in Section VII.A.8. with respect to claim 9.

18.   Claim 26

Claim 26 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and

Weerahandi. Appellants traverse the rejection for several reasons. First, claim 26 depends directly on claim 17 and so is patentable over Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi for at least the same reasons given in Section VII.A.10. on pages 28-30 above as to why claim 17 is patentable over the references.

The rejection is improper for the additional reason that there is no motivation in any of the references to use an estimator that "generates the estimated cost value as a function of a geographic region based on the accepted user-specific input and the adjusted adoption curve" as recited in claim 26. The estimator essentially performs the same function as recited in claim 10 and the Office Action is relying on the same arguments presented in Section VII.A.9. on pages 27-28 above with respect to claim 10 so as to reject claim 26. Accordingly, the rejections are improper for reasons similar to those given above in Section VII.A.9. with respect to claim 10.

B. Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Kroenke

1. Claim 8

Claim 8 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Kroenke. Appellants traverse this rejection. In particular, claim 8 depends directly on claim 1. As pointed out above in Section A.1. on pages 15-21, Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi do not suggest altering Kotler so as to 1) accept "user-specific input into a computer

relating to an existing wireless communications service and the enhanced wireless communications service", 2) use a user-specific input that includes a wireless application supported by an enhanced wireless communications service, 3) access a reference database that includes cost data values associated with an enhanced wireless communications service <u>and</u> a revenue data value associated with an existing wireless communications service, 4) adjusting a standard adoption curve to obtain an adjusted adoption curve and 5) estimate a potential revenue value by generating a revenue estimate based on an adjusted adoption curve. Since Kroenke does not suggest altering Kotler to implement the five items mentioned above, the rejection is improper and should be withdrawn.

2. Claim 24

Claim 24 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Kroenke. Appellants traverse this rejection. In particular, claim 24 depends directly on claim 17. As pointed out above in Section A.10 on pages 28-30, Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi do not suggest altering Kotler so as to have 1) a user input interface "for accepting user-specific input relating to an existing wireless communications service and the enhanced wireless communications service", 2) a user-specific input that includes a wireless application supported by an enhanced wireless communications service as recited in claim 17, 3) an estimator that accesses a reference database that includes

cost data values associated with an enhanced wireless communications service <u>and</u> a revenue data value associated with an existing wireless communications service and 4) an application tailoring module that modified a standard adoption curve to obtain an adjusted adoption curve. Since Kroenke does not suggest altering Kotler to implement the four items mentioned above, the rejection is improper and should be withdrawn.

C. Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, <u>Mahajan, Townsend, Weerahandi and Finnerty</u>

1. <u>Claim 11</u>

Claim 11 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Finnerty. Appellants traverses this rejection. In particular, claim 11 depends directly on claim 1. As pointed out above in Section A.1. on pages 15-21, Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi do not suggest altering Kotler so as to 1) accept "user-specific input into a computer relating to an existing wireless communications service and the enhanced wireless communications service", 2) use a user-specific input that includes a wireless application supported by an enhanced wireless communications service, 3) access a reference database that includes cost data values associated with an enhanced wireless communications service <u>and</u> a revenue data value associated with an existing wireless communications service, 4) adjusting a standard adoption curve to obtain an adjusted adoption curve and 5) estimate a potential revenue value by

generating a revenue estimate based on an adjusted adoption curve. Since Finnerty does not suggest altering Kotler to implement the five items mentioned above, the rejection is improper and should be withdrawn.

2.   **Claim 27**

Claim 27 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Finnerty. Appellants traverses this rejection. In particular, claim 27 depends directly on claim 17. As pointed out above in Section A.10 on pages 28-30, Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi do not suggest altering Kotler so as to have 1) a user input interface "for accepting user-specific input relating to an existing wireless communications service and the enhanced wireless communications service", 2) a user-specific input that includes a wireless application supported by an enhanced wireless communications service as recited in claim 17, 3) an estimator that accesses a reference database that includes cost data values associated with an enhanced wireless communications service <u>and</u> a revenue data value associated with an existing wireless communications service and 4) an application tailoring module that modified a standard adoption curve to obtain an adjusted adoption curve. Since Finnerty does not suggest altering Kotler to implement the four items mentioned above, the rejection is improper and should be withdrawn.

D. Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Heizer

1. Claims 12, 13, 15 and 16

Claims 12, 13, 15 and 16 were rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Heizer. Appellants traverses this rejection for various reasons. In particular, claims 12, 15 and 16 depend directly on claim 1. As pointed out above in Section A.1. on pages 15-21, Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi do not suggest altering Kotler so as to 1) accept "user-specific input into a computer relating to an existing wireless communications service and the enhanced wireless communications service", 2) use a user-specific input that includes a wireless application supported by an enhanced wireless communications service, 3) access a reference database that includes cost data values associated with an enhanced wireless communications service and a revenue data value associated with an existing wireless communications service, 4) adjusting a standard adoption curve to obtain an adjusted adoption curve and 5) estimate a potential revenue value by generating a revenue estimate based on an adjusted adoption curve. Since Heizer does not suggest altering Kotler to implement the five items mentioned above, the rejection is improper and should be withdrawn.

Claim 13 depends indirectly on claim 1 and so its rejection should be withdrawn for the same reasons stated above with respect to claim 1.

2.   Claim 14

Claim 14 was rejected under 35 U.S.C. § 103 as being obvious in view of Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend, Weerahandi and Heizer. Appellants traverses this rejection for various reasons. In particular, claim 14 depends directly on claim 1. As pointed out above in Section A.1. on pages 15-21, Kotler, "Disclosed Prior Art", Bohlin, Dorf, Porter, Mahajan, Townsend and Weerahandi do not suggest altering Kotler so as to 1) accept "user-specific input into a computer relating to an existing wireless communications service and the enhanced wireless communications service", 2) use a user-specific input that includes a wireless application supported by an enhanced wireless communications service, 3) access a reference database that includes cost data values associated with an enhanced wireless communications service and a revenue data value associated with an existing wireless communications service, 4) adjusting a standard adoption curve to obtain an adjusted adoption curve and 5) estimate a potential revenue value by generating a revenue estimate based on an adjusted adoption curve. Since Heizer does not suggest altering Kotler to implement the five items mentioned above, the rejection is improper and should be withdrawn.

The rejection of claim 14 is improper for the additional reason that the art cited fails to suggest altering Kotler to have "a bar chart of different variable factors potentially impacting net present value of a business based on the enhanced wire communications

service." The rejection relies on Heizer and Townsend as suggesting the recited bar chart. However, there is no suggestion in the references to form a bar chart of different variable facts that potential impact a net present value of a business based on an enhanced wire communications service. Without such suggestion, the rejection is improper and should be withdrawn.

SUMMARY

In summary, Appellants have shown that the rejections have no merit because the cited references do not suggest the inventions claimed. The rejections are improper for the additional reason that they were based on indiscriminately combining prior art without being based on proper motivation. *Akzo N.V. v. United States ITC*, 808 F.2d 1471, 1 USPQ2d 1241 (Fed. Cir. 1986). The indiscriminate combining of prior art is evidenced by the fact that the Office Action repeatedly cited multiple pages of a reference as supporting its position. This left it up to Appellants to guess what specific paragraphs/sentences/embodiments were being relied on to reject the claims. This is unfair to the Appellants in that they do not know what specific embodiments are combined and how they are being combined.
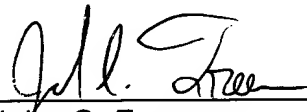
It is noted that page 31 of the Office Action has cited *In re Kahn* for the proposition that motivation to combine references "does not have to be found explicitly in the prior art." While this is true, it is also true that improper hindsight via Appellants' own disclosure cannot be used to provide the missing motivation.

Panduit Corp. v. Dennison Mfg. Co., 810 F.2d 1561, 1 USPQ2d 1593 (Fed. Cir. 1987). Such improper hindsight has been clearly been practiced with the rejection of the claims. Appellants' arguments have been made so as to expose the fact that improper hindsight reasoning is being practiced and are not a piecemeal analysis of the references as suggested by the Office Action at page 31.

For the reasons give above, Appellants respectfully submit that the rejections should be withdrawn and the claims should be allowed.

Respectfully submitted,

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VIII.   **CLAIMS APPENDIX**

1.   A method for providing a financial analysis for an enhanced wireless communications service, the method comprising:

accepting user-specific input into a computer relating to an existing wireless communications service and the enhanced wireless communications service, wherein the user-specific input includes a wireless application selection for selecting at least one wireless application supported by the enhanced wireless communications service and a market data input interface for entering existing data about the existing wireless communications service;

accessing a reference database including general market data applicable to the enhanced wireless communications service and a standard adoption curve for adoption of the enhanced wireless communications service, wherein the reference database further includes a first set of cost data values associated with a wireless infrastructure deployment cost and a second set of cost data values associated with an operations and maintenance cost for the enhanced wireless communications service, wherein the reference database further includes a revenue data value associated with the existing wireless communications service;

adjusting the standard adoption curve to obtain an adjusted adoption curve based on the accepted user-specific input;

estimating at least one potential revenue value associated with the at least one wireless application, wherein estimating comprises generating at least one

revenue estimate based on the accepted user-specific input, the revenue data value, the general market data and the adjusted adoption curve to generate at least one revenue estimate, and wherein estimating further comprises generating at least one cost estimate based on the first set of cost data values, the second set of cost data values and the adjusted adoption curve; and

presenting a graphical depiction of a financial analysis based on an evaluation of the at least one potential revenue value, the adjusted adoption curve, the general market data, the first set of cost data values, the second set of cost data values and the revenue data value.

2.   The method according to claim 1 wherein the adjusting comprises:

adjusting the standard adoption curve based on a user input of a selected geographic region from a library of regions and a selected application from a library of applications of the enhanced wireless communications service.

3.   The method according to claim 1 wherein the adjusting comprises:

changing a slope from the standard adoption curve to a revised slope of the adjusted adoption curve based on a user input of a specific geographic region.

4.   The method according to claim 1 wherein the adjusting comprises:

changing a saturation point from the standard adoption curve to a revised

saturation point of the adjusted adoption curve based on a user input of a specific

application.

5.   The method according to claim 1 wherein the adjusting comprises:

increasing a slope from the standard adoption curve to a revised slope of the

adjusted adoption curve based on a user input of a more affluent region than

average for deploying the enhanced wireless communications service.

6.   The method according to claim 1 wherein the adjusting comprises:

decreasing a slope from the standard adoption curve to a revised slope of the

adjusted adoption curve based on a user input of a less affluent region than average

for deploying the enhanced wireless communications service.

7.   The method according to claim 1 wherein the adjusting comprises:

lowering a saturation point from the standard adoption curve to a revised

saturation point on the standard adoption curve and based on a user input of a

particular application.

8.   The method according to claim 1 further comprising:

assigning a first level of security for a user with respect to the presenting and the accepting and assigning a second level of security higher than the first level of security with respect to the user being capable of modifying content of the reference database.

9.   The method according to claim 1 further comprising:

estimating revenue of the enhanced wireless communications service within a geographic region based on the accepted user-specific input and the adjusted adoption curve.

10.   The method according to claim 1 further comprising:

estimating cost of the enhanced wireless communications service within a geographic region based on the accepted user-specific input and the adjusted adoption curve.

11.   The method according to claim 1 wherein the presenting comprises providing a graphical depiction selected from the group consisting of a revenue by a market segment graph, a cash-flow projection graph, number of subscribers by application of the enhanced wireless service, and number of subscribers by market segment.

12.   The method according to claim 1 wherein the financial analysis comprises a sensitivity analysis showing sensitivity of net present value of a business based on the enhanced wireless communications service to a change in at least one variable factor.

13.   The method according to claim 12 wherein the at least one variable factor is selected from the group consisting of operating costs of the enhanced wireless communications service, investment costs of the enhanced wireless communications service, market uptake of the enhanced wireless communications service, usage rate of the enhanced wireless communications service, and price level for service offerings of the enhanced wireless communications service.

14.   The method according to claim 1 wherein the financial analysis comprises a bar chart of different variable factors potentially impacting net present value of a business based on the enhanced wireless communications service, the variable factors presented as horizontally extending bars along a vertical axis, a respective percentage change in the net present value for a corresponding incremental constant change in a variable factor indicated by a horizontal length of the bar from the vertical axis.

15.   The method according to claim 1 wherein the financial analysis comprises a graph of average revenue per user per a measured time interval, the graph including a group of plotted lines representing said average revenue per user within different market segments versus time.

16.   The method according to claim 15 wherein the market segments include an adult market segment, a youth market segment, a large business market segment, a medium business market segment, and a small business market segment.

17.   A system for developing a business model for an enhanced wireless communications service, the system comprising:

a storage device containing a reference database including general market data for the enhanced wireless communications service and a standard adoption curve for adoption of the enhanced wireless communications service, where the reference database further includes a first cost data value associated with a wireless infrastructure deployment cost and a second cost data value associated with an operations and maintenance cost for the enhanced wireless communications service, where the reference database further includes a revenue data value associated with an existing wireless communications service;

a user input interface for accepting user-specific input relating to an existing wireless communications service and the enhanced wireless communications service, wherein the user-specific input includes a wireless application selection for selecting at least one wireless application supported by the enhanced wireless communications service and a market data input interface for entering existing data about the existing wireless communications service;

an application tailoring module for modifying the standard adoption curve to obtain an adjusted adoption curve based on the user-specific input;

an estimator adapted to access the reference database and to receive the user-specific input to perform a financial analysis associated with the enhanced wireless communications service as a function of the user-specific input, the first cost data value, the second cost data value and the revenue data value, the estimator for generating an estimated revenue value and an estimated cost value; and

a financial analyzer for presenting a graphical depiction of the financial analysis.

18.   The system according to claim 17 wherein the application tailoring module includes an adoption curve adjuster for adjusting the standard adoption curve based on a user input of a selected geographic region from a library of regions and a selected application from a library of applications.

19.   The system according to claim 17 wherein the application tailoring module changes a slope from the standard adoption curve to a revised slope of the adjust adoption curve based on the user input of a specific country.

20.   The system according to claim 17 wherein the application tailoring module changes a saturation point from the standard adoption curve to a revised saturation point of the standard adoption curve based on a user input of a specific application.

21.   The system according to claim 17 wherein the application tailoring module increases a slope from the standard adoption curve to a revised slope of the adjusted adoption curve based on the user input of a more affluent region than average for deploying the enhanced wireless communications service.

22.   The system according to claim 17 wherein the application tailoring module decreases a slope from the standard adoption curve to a revised slope of the adjusted adoption curve based on a user input of a less affluent region than average for deploying the enhanced wireless communications service.

23.   The system according to claim 17 wherein the application tailoring module lowers a saturation point from the standard adoption curve to a revised saturation point of the standard adoption curve based on a user input of a particular application of the wireless communications service.

24.   The system according to claim 17 further comprising a security manager for assigning a first level of security for a user with respect to the user input interface and assigning a second level of security higher than the first level of security with respect to the user being capable of modifying content of the reference database.

25.   The system according to claim 17 wherein the estimator generates the estimated revenue value as a function of a geographic region based on the accepted user-specific input and the adjusted adoption curve.

26.   The system according to claim 17 wherein the estimator generates the estimated cost value as a function of a geographic region based on the accepted user-specific input and the adjusted adoption curve.

27.   The system according to claim 17 wherein the financial analyzer depicts a graphical representation of the financial analysis selected from the group consisting of a revenue by market segment graph, a cash-flow projection graph, number of subscribers by application of the enhanced wireless communications service, number of subscribers by market segment, a graph showing sensitivity of net present value to a variable factor, and a graph of average revenue per user within different market segments.

IX.   **EVIDENCE APPENDIX**

None.

X.   RELATED PROCEEDINGS APPENDIX

None.